



# A Practitioner's Guide to the Information Management Act

## Frequently Asked Questions about the Act

### Introduction

The *Information Management Act* (IMA) came into force by Order in Council on May 10, 2016. On that date, the IMA replaced the 1936 *Document Disposal Act* (DDA) as government's primary information management law.

The IMA maintains the status of records schedules approved under the DDA, while:

- Modernizing information management practices;
- Streamlining approval processes;
- Establishing a Chief Records Officer (CRO); and
- Establishing the foundation for government's transition to digital information management and archiving.

The IMA was amended on March 31, 2019. Those amendments enhanced the powers of the CRO and added a requirement for the head of a government body to ensure that an appropriate system is in place within the government body for creating and maintaining government information that is an adequate record of that government body's decisions.

### Purpose and Coverage of the IMA

#### 1. What does the IMA do?

The IMA modernizes and streamlines information management across government by:

- Transitioning government to the digital storage and management of information;

- Establishing digital archives and requiring the archiving of information in digital form (subject to reasonable exceptions);
- Establishing a Chief Records Officer to approve information schedules, manage the digital archives, and promote effective information management across government; and
- Establishing an obligation to ensure that an appropriate system is in place to create adequate records of government decisions, and to manage and secure all government information from creation to disposal or archiving.

In short, the IMA provides a legislative framework for modern, digital information practices, which will increase worker productivity, reduce costs for taxpayers, enable timelier services for the people of British Columbia, and improve access to information.

## 2. What does the IMA cover?

The IMA applies to “government information” and “court information” (see “[Courts and Court Information](#)”).

Government information is information that is created or received by a government body in connection with government business. It includes information that:

- Must be held by law;
- Documents a decision respecting a course of action that directly affects a person or the operations of a government body;
- Documents or supports a government body's organization, policies, procedures, transactions or operations,
- Has archival value; or
- Relates to matters of court administration assigned to the Attorney General or government by law.

Government information does not include constituency information held in the office of a minister.

## 3. Who is covered by the IMA?

The IMA applies to the following bodies:

- All ministries;
- Courts, in a limited way (see “[Courts and Court Information](#)”); and
- Government agencies designated as a “government body” by regulation (see “[What government agencies are designated ‘government bodies’?](#)”).

#### 4. What government agencies are designated “government bodies”?

A government agency is defined in the IMA as an association, board, commission, corporation or other body that meets one or more of the following criteria:

- (a) The body is an agent of the government,
- (b) The body is a corporation with issued voting shares and the government owns, directly or indirectly, more than 50% of the issued voting shares of the corporation, or
- (c) A majority of the members of the body or of its board of directors or board of management are one or both of the following:
  - (i) appointed by the Lieutenant Governor in Council, by a minister or by an Act;
  - (ii) ministers or public officers acting as ministers or public officers.

While the definition of government agency in the IMA is broad, not all agencies that meet this definition will be designated “government bodies” and subject to the Act.

Currently, only those agencies that meet both of the following criteria have been designated “government bodies”:

1. The agency meets the definition of “government agency” in the IMA; and
2. The agency has records that were governed by a records retention schedule approved under the DDA.

These criteria ensure appropriate continuity of records retention schedules established under the DDA while government transitions to more modern and digital information practices.

In the future, government may add additional government agencies to the coverage of the IMA by regulation, after appropriate consultation and review.

A complete list of the agencies currently designated as “government bodies” and covered by the IMA is attached as **Appendix A**.

# Information Schedules

## 5. What is an information schedule?

An information schedule specifies how long specified information must be retained and what its final disposition will be. Most information is eventually disposed of after a specified period of time; however, some information is designated for archiving (permanent preservation) or transfer to another entity outside of government.

An information schedule can only be approved by the CRO, and once approved, the IMA requires the CRO to publish the schedule (see [“Role and Mandate of the Chief Records Officer”](#)).

Another type of information schedule is a “court information schedule”. These schedules govern the appropriate retention and disposal of court information and are approved by the Deputy Attorney General and the Chief Judge or Justice of a court (see [“Courts and Court Information”](#)).

## 6. What happens to existing records schedules that were approved under the DDA?

Section 24 of the IMA maintains the status of records schedules that were approved under the DDA, by deeming them to be information schedules or court information schedules approved under the IMA. As such, records schedules approved under the DDA continue to apply to the information they cover unless they are replaced with an information schedule or court information schedule under the IMA.

One of the benefits of the IMA for ministries and government bodies is that they are able to take advantage of new streamlined approval processes should they need to update old record schedules or have new ones created.

## 7. How can my organization get a new or revised information schedule under the IMA?

For information on how to obtain a new or updated information schedule, government bodies should contact their [records officer or broader public sector client relations specialist](#) in the Government Records Service at 250-387-3387.

# Role and Mandate of the Chief Records Officer

## 8. What is the CRO's mandate under the IMA?

Section 3 of the IMA sets out the CRO's mandate. It includes:

- Promoting the preservation of valuable government information for current and future use;
- Approving information schedules that govern the holding, transferring, archiving and disposal of government information;
- Managing the digital archives and promoting its availability to the public;
- Promoting effective information management by government bodies; and
- Examining, evaluating and reporting on the management of government information and making recommendations considered advisable.

## 9. What are the powers and responsibilities of the CRO under the IMA?

The CRO has a number of powers and responsibilities in the IMA. Specifically, the CRO:

- May approve information schedules governing the retention of government information (Section 4);
- Must publish approved information schedules (Section 5);
- May issue directives and guidelines relating to a matter under the Act (Section 6);
- May access information held by a government body, including personal information, and may require from an officer or employee of a government body information and explanations necessary for the CRO to carry out their mandate (Section 8);
- Must provide an annual report to the Minister (Section 8.1);
- May provide an exemption to the requirement to digitize information (Section 9);
- May, in cases where no information schedule applies, approve the transfer, archiving or disposal of government information and publish the approval (Section 11);
- Must manage, secure and preserve the digital archives (Section 12);
- May provide an exemption to the requirement to digitize information before it is archived (Section 13);
- May approve the transfer of government information recorded in non-digital form to the museum archives of government (Section 14); and
- May certify records held in the digital archives as a true copy for the purpose of admitting them into evidence (Section 15).

## 10. Has the CRO issued any directives under section 6 of the IMA?

The CRO has issued two directives:

Directive [CRO 01-2019](#) is a directive to all government bodies respecting the “appropriate system” for creating and maintaining an “adequate record” of a government body’s decisions.

Specifically, this directive prescribes the elements of an “appropriate system” for documenting government decisions and sets out the types of records that constitute an “adequate record” of a government body's decisions.

Directive [CRO 01-2021](#) is a directive to all government bodies respecting the archiving of government information. The directive has two parts:

1. It requires government bodies to continue to hold any digital information that is scheduled to be archived until such time as the digital archives, established under section 12 of the IMA, are operational.
2. It also provides a time-limited exemption (to September 30, 2023) from the requirement to digitize information before it is archived and permits the transfer of this non-digital information to the Royal BC Museum.

When the digital archives is ready to receive information, the CRO will consult with government bodies and provide further direction on timing, permitted formats and other requirements.

## Responsibilities of the Head of a Government Body

### 11. Who is the head of a government body?

For government ministries, the head is the Minister. In practice, and as authorized by the *Interpretation Act*, actions of a minister or other named official can be carried out by ministry officials of experience and competence, “for and on behalf of” the Minister. Typically, accountability for the responsibilities of a minister as the “head” of a government body is assigned to the Deputy Minister.

For other government bodies, the head is the individual designated as the head of the government body by regulation. A complete list of the agencies designated as “government bodies” and their heads is attached as **Appendix A**.

### 12. What are the responsibilities of the head of a government body?

Section 19 of the IMA sets out the responsibilities the head of a government body has under the IMA.

They include:

- Ensuring that an appropriate system is in place within the government body to create, maintain, manage and secure government information;

- Responding to requests for information from the CRO respecting the government body's management of government information; and
- Ensuring that no government information held by the government body is disposed of, except as permitted by an information schedule or with the approval of the CRO.

In addition, the head of a government body must take reasonable steps to ensure that the government body complies with:

- Directives and guidelines issued by the CRO;
- The requirement to hold, transfer, archive and dispose of government information in accordance with information schedules; and
- Requirements to digitize information (once those requirements come into effect).

### 13. What is meant by an “appropriate system”?

Section 19 (1) of the IMA requires the head of a government body to ensure that an “appropriate system” is in place within the government body to manage and secure government information.

Section 19 (1.1) of the IMA further requires the head of a government body to ensure that an “appropriate system” is in place within the government body to ensure that adequate records of that government body's decisions are created and maintained.

The features of an “appropriate system” for creating and maintaining adequate records of government decisions are set out in Directive 01-2019, with significant flexibility for government bodies to determine what constitutes an appropriate system.

An “appropriate system” is not only about technology. It also includes policies, processes, roles, responsibilities and the controls necessary to ensure the appropriate management of information throughout its lifecycle.

Government bodies need to ensure that they have the appropriate combination of people, processes and technology in place to ensure that government information is held, transferred, archived and disposed of in accordance with the IMA.

# Digitizing Government Information

## 14. Do I have to digitize all my records?

The IMA does not currently require the digitization of any records.

While there could be a number of reasons that a ministry may wish to digitize its physical records (e.g., to save space by reducing need for physical storage or to provide ready access to digitized records by making it easier to search and retrieve information), it is not a legal or policy requirement that they do so.

The “digitization” requirements in section 9 of the IMA are not yet in force. When they are in force, they will be prospective only, meaning that they will apply only to records created after that future date.

Ministries will not be required to digitize legacy records created before that date, with only one exception. The one type of “legacy” records that may be required to be digitized is analog-format information that is eligible for archiving in the digital archives after September 30, 2021 (see [“Do I have to digitize analog-format archival materials and send them to the digital archives?”](#)).

## 15. What records will I be required to digitize in the future?

Section 9 of the IMA requires that all government bodies store their information digitally unless they receive an exemption from the CRO. This requirement is not currently in force.

When section 9 comes into effect, the requirement will be prospective and will only apply to information created or received after that date.

It is expected that the CRO will exempt general categories of information from the requirement (e.g., transitory information) and also provide for agency-specific exemptions on a case-by-case basis.

Transitioning to digital information management is no small task. In recognition of this, government has committed to conducting further consultations and establishing reasonable exemptions before this requirement comes into effect. This will include consulting on any technical requirements and on the types of information that should be exempted from the requirement to digitize.

## 16. Do I have to digitize analog-format archival materials and send them to the digital archives?

Section 13 of the Act is currently in force, which requires all information in non-digital form to be digitized before it is archived. However, Directive 02-2019 exempts all government information in non-digital form that is scheduled to be archived under an information schedule and eligible for archiving on or before September 30, 2021.

Ministry Records Officers can answer questions about what records are scheduled for archiving and whether they will be eligible for archiving in the digital archives after September 30, 2021.

# Documenting Government Decisions

## 17. How do I know if I need to document a decision?

Government bodies do not have to create and keep records of every decision made by every employee. Government bodies need to identify which decisions are to be documented by applying their judgement, in the context of their specific mandates and with consideration to the purpose and intent of the IMA, Directive 01-2019 any guidelines issued by the CRO, and other obligations that may exist in relevant law and policy respecting documenting decisions. To help determine if a decision is required to be documented under the IMA, refer to the CRO guidelines.

A government body should document a decision where a record would serve one or more of the following purposes:

- Informing the government body or others about the evolution of the government body's programs, policies or enactments;
- Protecting the legal or financial rights or obligations of the government body, the Crown, or any person, group of persons, government or organization that is directly and materially affected by the decision;
- Facilitating the government body's accountability for its decisions, including through internal or external evaluation, audit or review.

Section 19 (1.1) of the IMA requires that government bodies have an appropriate system in place for creating and maintaining, in accordance with directives and guidelines issued by CRO, government information that is an adequate record of their decisions.

Directive 01-2019 sets out the components of an appropriate system and what constitutes an adequate record. The Guidelines expand on the Directive and provide operational examples. Together, the Directive and Guidelines provide a flexible, principle-based framework that government bodies can operationalize in a manner suitable to their respective mandates.

Government bodies should review their operations to ensure that they can demonstrate compliance with the IMA, the Directive and the Guidelines.

## 18. What new requirements do I have to follow to document decisions?

Most government bodies should not need to significantly change their operations as they are already documenting their key decisions.

One of the objectives of Chapter 12 of the Core Policy and Procedures Manual is to ensure ministries "create and retain a full and accurate record documenting decisions and actions" (Part III: Managing Information) and other corporate policies and procedures provide specific direction on documentation. In addition, about 80% of BC's statutes contain some kind of authority for creating records. Many more program-specific policies and procedures also set out documentation requirements.

A robust high-level information management framework already exists for government bodies. This corporate framework comprises information management legislation such as the IMA, the *Freedom of Information and Protection of Privacy Act* (FOIPPA), their associated regulations, ministerial orders and ministerial or CRO directives and numerous policies.

## 19. What is meant by an “adequate record” of a government body decision?

What constitutes an adequate record will vary depending on the circumstance. In general, a government body will need to assure itself that the policies and practices it has in place are sufficient to require the appropriate creation of records that do at least one of the following:

- Support public accountability and access to information about important decisions;
- Protect the legal and financial rights and obligations of government and those directly affected by a government body’s decisions;
- Account for the evolution of the government body’s organization, policies and programs; or
- Ensure the government body can be held accountable through an audit or review that is reasonably expected to occur related to those decisions.

Section 19 1.1 of the IMA requires the creation of adequate records. This requirement has been designed to be broad enough to be flexibly applied across the wide range of ministry practices and needs, while ensuring that government bodies are creating the records to support transparency, access and accountability. Most government bodies already have policies and processes in place for creating and maintaining adequate records of decisions. As such, adherence to common corporate practices will generally ensure alignment with documenting government decisions requirements.

In general, a record of decision is adequate if it can reasonably be expected that someone not familiar with the decision could be reasonably informed about the following, as applicable:

- Who made the decision and under what authority;
- When the decision was made and, if appropriate, when it takes effect;
- Who is reasonably likely to be directly and materially affected by the decision and, where practicable, the way in which they are reasonably likely to be affected by the decision; and
- What are the basis for and context in which the decision was made, including, as applicable, any relevant legal, policy or factual information.

Not all of these factors will apply to every decision. For example, many decisions do not affect others, so it is not necessary to document who is reasonably likely to be affected or how. Government bodies are expected to carefully consider, in the circumstances of each case, what is required to adequately document a decision.

In some cases, an adequate record of a decision may be a note in a case management system or case file; in others it may comprise copies of extensive studies. It is also important to remember that a record is required to be “adequate”, not “perfect”. In addition, it is not necessary for a single record to be created that contains all of the material contextual information. The amount and type of contextual information that is adequate will vary depending on the nature of the decision.

# Digital Archives

## 20. How does the IMA impact the archiving of information?

Section 12 of the IMA establishes the digital archives as government's primary archives going forward. While the museum archives (Royal BC Museum) will continue to operate, it will start to receive less and less archival information as information is created, stored and eventually archived digitally.

Section 14 of the IMA requires digital information of archival value to be transferred to the digital archives. In addition, section 13 of the IMA requires non-digital information to be digitized before it is archived, unless the CRO exempts the information from the digitization requirement.

Non-digital information that is ready to be archived is currently exempted from the digitization requirement and approved for transfer to the museum archives. Once the digital archives is operational and ready to receive material, non-digital information will need to be digitized and transferred to the digital archives, subject to limited exemptions. Exempted categories of records will continue to be archived with the Royal BC Museum.

## 21. What is the digital archives?

The Digital Archives preserves and makes accessible digital records (government information in digital form) that have been appraised as having permanent value to government and society. It is an organizational and technological infrastructure that will ensure the authenticity and accessibility of archival holdings over time.

# Courts and Court Information

## 22. What courts are covered by the IMA?

The IMA applies, in a limited manner, to the British Columbia Court of Appeal, Supreme Court and Provincial Court. These courts were covered by the DDA and continue to be covered by the IMA in a manner that preserves their independence from government.

## 23. What is “court information”?

The IMA recognizes three types of court-related information:

1. “Court information”, or information related to court proceedings, which is held by a court and is covered by the Act in a limited way (sections 16.1 to 16.3 set out the rules that apply to the management and retention of “court information”).
2. “Court administration information”, which is managed by the Ministry of Attorney General and is considered “government information” for the purposes of the Act. “Government information” is subject to all the requirements of the Act.
3. “Judicial administration records”, which are records that relate to a judge, master, or justice of the peace, and are entirely excluded from the coverage of the Act to preserve the independence of the judiciary (this is consistent with how these records are treated under the FOIPPA).

## 24. How are courts and court information covered by the IMA?

Part 5 of the IMA specifies how the Act applies to Courts and court information.

Court information must be held, transferred, archived and disposed of in accordance with a “court information schedule”. However, it is the Deputy Attorney General and the Chief Judge or Justice of a court that have the authority to approve court information schedules, not the CRO. The Deputy Attorney General is also responsible for publishing court information schedules.

In addition, court information and judicial administration records that have archival value may be transferred to the digital archives or the museum archives.

No other requirements in the IMA apply to courts, court information or judicial administration records.

This approach recognizes the independence of courts from the executive arm of government and preserves the important role of the Deputy Attorney General in approving information schedules that govern the retention and disposition of court information.

## Contact Information

For further information, please contact [GRS@gov.bc.ca](mailto:GRS@gov.bc.ca).

# Appendix A: Government Bodies under the IMA

| Government Body   | Title of Head                   |
|---|---------------------------------|
| 1. Agricultural Land Commission                           | Chair                           |
| 2. Board of Examiners for Local Government                | Inspector of Municipalities     |
| 3. British Columbia Arts Council                          | Chair                           |
| 4. British Columbia Emergency Health Services Authority   | Chair of the Board of Directors |
| 5. British Columbia Housing Management Commission         | Chair                           |
| 6. British Columbia Innovation Council                    | Chair                           |
| 7. British Columbia Lottery Corporation                   | Chair of the Board of Directors |
| 8. British Columbia Pavilion Corporation                  | Chair of the Board of Directors |
| 9. British Columbia Securities Commission                 | Chair                           |
| 10. British Columbia Transit Corporation                  | Chair of the Board of Directors |
| 11. British Columbia Transportation Financing Authority   | Chair of the Board of Directors |
| 12. Building Code Appeal Board                            | Attorney General                |
| 13. Columbia Power Corporation                            | Chair of the Board of Directors |
| 14. Community Care and Assisted Living Appeal Board       | Chair                           |
| 15. Community Living BC                                   | Chair of the Board              |
| 16. Credit Union Deposit Insurance Corporation            | Chief Executive Officer         |
| 17. Destination BC Corporation                            | Chair                           |
| 18. Environmental Appeal Board                            | Chair                           |
| 19. BC Financial Services Authority                       | Chief Executive Officer         |
| 20. Financial Services Tribunal                           | Chair                           |
| 21. First Peoples' Heritage, Language and Culture Council | Chair                           |
| 22. Forensic Psychiatric Services Commission              | Chair of the Board              |
| 23. Forest Appeals Commission                             | Chair                           |
| 24. Forest Practices Board                                | Chair                           |
| 25. Forestry Innovation Investment Ltd.                   | Chair of the Board              |
| 26. Health Professions Review Board                       | Chair                           |
| 27. Hospital Appeal Board                                 | Chair                           |
| 28. Industry Training Appeal Board                        | Chair                           |
| 29. Justice Institute of British Columbia                 | Chief Executive Officer         |
| 30. Knowledge Network Corporation                         | Chief Executive Officer         |
| 31. Medical Services Commission                           | Chair                           |
| 32. <i>Repealed. [B.C. Reg. 220/2019, s. (c).]</i>        |                                 |
| 33. <i>Repealed. [B.C. Reg. 220/2019, s. (c).]</i>        |                                 |
| 34. <i>Repealed. [B.C. Reg. 220/2019, s. (c).]</i>        |                                 |
| 35. Office of the Superintendent of Real Estate           | Superintendent of Real Estate   |
| 36. Oil and Gas Appeal Tribunal                           | Chair                           |
| 37. Oil and Gas Commission                                | Commissioner                    |
| 38. Patient Care Quality Review boards (Each board)       | Chair                           |
| 39. Provincial Health Services Authority                  | Chief Executive Officer         |
| 40. Royal British Columbia Museum                         | Chair of the Board of Directors |
| 41. Transportation Investment Corporation                 | Chair of the Board of Directors |